

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION


U.S. Magistrate Judge

STONEY SCOTT CROWDER and
SUMMER CROWDER,

Plaintiffs,

vs.

CSX TRANSPORTATION, INC.,
a corporation,

Defendant.

Case No. 3:09-0385

**DEFENDANT'S MOTION TO FILE REPLY BRIEF TO ITS MOTION TO LIMIT
AND EXCLUDE PLAINTIFFS' VOCATIONAL AND ECONOMIC EXPERTS**

Comes the Defendant, CSX Transportation, Inc. ("CSXT"), by and through its counsel of record, and for its Motion to File Reply Brief to Its Motion to Limit and Exclude Plaintiffs' Vocational and Economic Experts, states that:

On June 8, 2010, CSXT filed its Motion to Limit and Exclude Plaintiffs' Vocational and Economic Experts. Specifically, CSXT moved to exclude the testimony of Plaintiff's vocational expert, Mary House Kessler ("Dr. Kessler") based upon her deposition testimony that she would not have offered opinions regarding Stoney Scott Crowder's ("Mr. Crowder") loss of access to wages if she knew he had been terminated, as opposed to laid off, from his former employment with Union Pacific ("UP"). As Plaintiffs' economic expert, Fred E. Johnson ("Dr. Johnson") relied upon Dr. Kessler's disavowed opinion as the basis for his economic opinions, CSXT moved to have the entirety of Dr. Johnson's opinions excluded.

On July 6, 2010, Plaintiffs filed a Response to the Motion, and attached an affidavit from Dr. Kessler. In the affidavit, Dr. Kessler revealed new opinions, claiming